

Introduced by Senator Campbell

February 22, 2005

An act to amend Sections 73, 17053.84, and 23684 of the Revenue and Taxation Code, relating to solar energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1017, as introduced, Campbell. Solar energy: taxation.

(1) The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws. Existing law allows a credit against those taxes for taxable years beginning on and after January 1, 2004, and before January 1, 2006, for certain amounts relating to the use of solar or wind energy systems, as defined.

This bill would make that credit applicable for taxable years beginning on and after January 1, 2004, and before January 1, 2017.

(2) Existing property tax law, until January 1, 2006, provides that, for property tax lien dates for the 1999-2000 to 2004-05 fiscal years, inclusive, the term "newly constructed" as used in the California Constitution does not include the construction or addition of any active solar energy system, as defined.

This bill would continue that exclusion for an active solar energy system, as defined, until January 1, 2018, for property tax lien dates for the 1999-2000 to 2016-17 fiscal years, inclusive. By requiring local taxing authorities to perform duties with regard to the continuation of the active solar energy system exclusion, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 73 of the Revenue and Taxation Code is
2 amended to read:

3 73. (a) Pursuant to the authority granted to the Legislature
4 pursuant to paragraph (1) of subdivision (c) of Section 2 of
5 Article XIII A of the California Constitution, the term “newly
6 constructed,” as used in subdivision (a) of Section 2 of Article
7 XIII A of the California Constitution, does not include the
8 construction or addition of any active solar energy system, as
9 defined in subdivision (b).

10 (b) (1) “Active solar energy system” means a system that uses
11 solar devices, which are thermally isolated from living space or
12 any other area where the energy is used, to provide for the
13 collection, storage, or distribution of solar energy.

14 (2) “Active solar energy system” does not include solar
15 swimming pool heaters or hot tub heaters.

16 (3) Active solar energy systems may be used for any of the
17 following:

18 (A) Domestic, recreational, therapeutic, or service water
19 heating.

20 (B) Space conditioning.

21 (C) Production of electricity.

22 (D) Process heat.

23 (E) Solar mechanical energy.

24 (c) (1) (A) The Legislature finds and declares that the
25 definition of spare parts in this paragraph is declarative of the
26 intent of the Legislature, in prior statutory enactments of this
27 section that excluded active solar energy systems from the term
28 “newly constructed,” as used in the California Constitution,
29 thereby creating a tax appraisal exclusion.

30 (B) An active solar energy system that uses solar energy in the
31 production of electricity includes storage devices, power
32 conditioning equipment, transfer equipment, and parts related to
33 the functioning of those items. In general, the use of solar energy

1 in the production of electricity involves the transformation of
2 sunlight into electricity through the use of devices—~~such as~~,
3 *including* solar cells or other collectors. However, an active solar
4 energy system used in the production of electricity includes only
5 equipment used up to, but not including, the stage of the
6 transmission or use of the electricity. For the purpose of this
7 paragraph, the term “parts” includes spare parts that are owned
8 by the owner of, or the maintenance contractor for, an active
9 solar energy system that uses solar energy in the production of
10 electricity and which spare parts were specifically purchased,
11 designed, or fabricated by or for that owner or maintenance
12 contractor for installation in an active solar energy system that
13 uses solar energy in the production of electricity, thereby
14 including those parts in the tax appraisal exclusion created by
15 this section.

16 (2) An active solar energy system that uses solar energy in the
17 production of electricity also includes pipes and ducts that are
18 used exclusively to carry energy derived from solar energy. Pipes
19 and ducts that are used to carry both energy derived from solar
20 energy and from energy derived from other sources are active
21 solar energy system property only to the extent of 75 percent of
22 their full cash value.

23 (3) An active solar energy system that uses solar energy in the
24 production of electricity does not include auxiliary equipment,
25 such as furnaces and hot water heaters, that use a source of power
26 other than solar energy to provide usable energy. An active solar
27 energy system that uses solar energy in the production of
28 electricity does include equipment, such as ducts and hot water
29 tanks, that is utilized by both auxiliary equipment and solar
30 energy equipment, that is, dual use equipment. That equipment is
31 active solar energy system property only to the extent of 75
32 percent of its full cash value.

33 (d) This section shall apply to property tax lien dates for the
34 1999–2000 to ~~2004–05~~ 2016–17 fiscal years, inclusive. For
35 purposes of supplemental assessment, this section shall apply
36 only to qualifying construction or additions completed on or after
37 January 1, 1999.

38 (e) This section shall remain in effect only until January 1,
39 ~~2006~~ 2018, and as of that date is repealed, unless a later enacted

1 statute that is enacted before January 1, ~~2006~~ 2018, deletes or
2 extends that date.

3 SEC. 2. Section 17053.84 of the Revenue and Taxation Code
4 is amended to read:

5 17053.84. (a) For each taxable year beginning on or after
6 January 1, 2001, and before January 1, 2004, there shall be
7 allowed as a credit against the “net tax,” as defined in Section
8 17039, an amount equal to the lesser of 15 percent of the cost
9 that is paid or incurred by a taxpayer, after deducting the value of
10 any other municipal, state, or federal sponsored financial
11 incentives, during the taxable year for the purchase and
12 installation of any solar or wind energy system installed on
13 property in this state, or the applicable dollar amount per rated
14 watt of that solar or wind energy system, as determined by the
15 Franchise Tax Board in consultation with the State Energy
16 Resources Conservation and Development Commission.

17 (b) For each taxable year beginning on or after January 1,
18 2004, and before January 1, ~~2006~~ 2017, there shall be allowed as
19 a credit against the “net tax,” as defined in Section 17039, an
20 amount equal to the lesser of 7.5 percent of the cost that is paid
21 or incurred by a taxpayer, after deducting the value of any other
22 municipal, state, or federal sponsored financial incentives, during
23 the taxable year for the purchase and installation of any solar or
24 wind energy system installed on property in this state, or the
25 applicable dollar amount per rated watt of that solar or wind
26 energy system, as determined by the Franchise Tax Board in
27 consultation with the State Energy Resources Conservation and
28 Development Commission.

29 (c) For purposes of this section:

30 (1) “Applicable dollar amount” means four dollars and fifty
31 cents (\$4.50) for any taxable year beginning on or after January
32 1, 2001, and before January 1, ~~2006~~ 2017.

33 (2) “Solar energy system” means a solar energy device, in the
34 form of a photovoltaic system, with a peak generating capacity of
35 up to, but not more than 200 kilowatts, used for the individual
36 function of generating electricity, that is certified by the State
37 Energy Resources Conservation and Development Commission
38 and installed with a five-year warranty against breakdown or
39 undue degradation.

(3) “Wind energy system” means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, with a peak generating capacity of up to, but not exceeding, 200 kilowatts, use for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(4) A credit may be allowed under this section with respect to only one solar or wind energy system per each separate legal parcel of property or per each address of the taxpayer in the state.

(5) No credit may be allowed under this section unless the solar or wind energy system is actually used for purposes of producing electricity and primarily used to meet the taxpayer’s own energy needs.

(d) No other credit and no deduction may be allowed under this part for any cost for which a credit is allowed by this section. The basis of the solar or wind energy system shall be reduced by the amount allowed as a credit under subdivision (a) or (b).

(e) No credit shall be allowed to any taxpayer engaged in those lines of business described in Sector 22 of the North American Industry Classification System (NAICS) Manual published by the United States Office of Management and Budget, 1997 edition.

(f) If any solar or wind energy system for which a credit is allowed pursuant to this section is thereafter sold or removed from this state within one year from the date the solar or wind energy system is first placed in service in this state, the amount of credit allowed by this section for that solar or wind energy system shall be recaptured by adding that credit amount to the net tax of the taxpayer for the taxable year in which the solar or wind energy system is sold or removed.

(g) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and the succeeding seven years if necessary, until the credit is exhausted.

(h) This section shall remain in effect only until December 1, ~~2006~~ 2017, and as of that date is repealed.

SEC. 3. Section 23684 of the Revenue and Taxation Code is amended to read:

23684. (a) For each taxable year beginning on or after January 1, 2001, and before January 1, 2004, there shall be allowed as a credit against the “tax,” as defined in Section 23036, an amount equal to the lesser of 15 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar or wind energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar or wind energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(b) For each taxable year beginning on or after January 1, 2004, and before January 1, ~~2006~~ 2017, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount equal to the lesser of 7.5 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar or wind energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar or wind energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(c) For purposes of this section:

(1) “Applicable dollar amount” means four dollars and fifty cents (\$4.50) for any taxable year beginning on or after January 1, 2001, and before January 1, ~~2006~~ 2017.

(2) “Solar energy system” means a solar energy device, in the form of a photovoltaic system, with a peak generating capacity of up to, but not more than 200 kilowatts, used for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(3) “Wind energy system” means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, with a peak generating capacity of up to, but not exceeding, 200 kilowatts, used for the individual function of generating electricity, that is certified by the State

1 Energy Resources Conservation and Development Commission
2 and installed with a five-year warranty against breakdown or
3 undue degradation.

4 (4) A credit may be allowed under this section with respect to
5 only one solar or wind energy system per each separate legal
6 parcel of property or per each address of the taxpayer in the state.

7 (5) No credit may be allowed under this section unless the
8 solar or wind energy system is actually used for purposes of
9 producing electricity and is primarily used to meet the taxpayer's
10 own energy needs.

11 (d) No other credit and no deduction may be allowed under
12 this part for any cost for which a credit is allowed by this section.
13 The basis of the solar or wind energy system shall be reduced by
14 the amount allowed as a credit under subdivision (a) or (b).

15 (e) No credit may be allowed to any taxpayer engaged in those
16 lines of business described in Sector 22 of the North American
17 Industry Classification System (NAICS) Manual published by
18 the United States Office of Management and Budget, 1997
19 edition.

20 (f) If any solar or wind energy system for which a credit is
21 allowed pursuant to this section is thereafter sold or removed
22 from this state within one year from the date the solar or wind
23 energy system is first placed in service in this state, the amount
24 of credit allowed by this section for that solar or wind energy
25 system shall be recaptured by adding that credit amount to the tax
26 of the taxpayer for the taxable year in which the solar or wind
27 energy system is sold or removed.

28 (g) In the case where the credit allowed by this section
29 exceeds the "tax," the excess may be carried over to reduce the
30 "tax" in the following year, and the succeeding seven years if
31 necessary, until the credit is exhausted.

32 (h) This section shall remain in effect only until December 1,
33 ~~2006~~ 2017, and as of that date is repealed.

34 SEC. 4. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the duties imposed on a local agency or school district by this act
37 were expressly included in a ballot measure approved by the
38 voters in a statewide election, within the meaning of Section
39 17556 of the Government Code.

1 Notwithstanding Section 17580 of the Government Code,
2 unless otherwise specified, the provisions of this act shall
3 become operative on the same date that the act takes effect
4 pursuant to the California Constitution.

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